

**Introduced by Senator Kelley**

February 13, 1998

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An act to amend Sections 3068.1, 3072, 3073, and 3074 of the Civil Code, and to amend Sections 22670 and 22851.12 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1650, as introduced, Kelley. Vehicles: lien sales.

Existing law provides one lien sale procedure for vehicles that have been determined to have a value of \$2,500 or less and a different lien sale procedure for vehicles that have been determined to have a value exceeding \$2,500.

This bill would increase the \$2,500 amount to \$4,000, thus making one of the existing lien sale procedures applicable to vehicles valued at \$4,000 or less, and the other existing lien sale procedure applicable to vehicles valued at over \$4,000.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3068.1 of the Civil Code is  
2 amended to read:  
3 3068.1. (a) Every person has a lien dependent upon  
4 possession for the compensation to which the person is  
5 legally entitled for towing, storage, or labor associated  
6 with recovery or load salvage of any vehicle subject to  
7 registration that has been authorized to be removed by  
8 a public agency, a private property owner pursuant to

1 Section 22658 of the Vehicle Code, or a lessee, operator,  
2 or registered owner of the vehicle. The lien is deemed to  
3 arise on the date of possession of the vehicle. Possession  
4 is deemed to arise when the vehicle is removed and is in  
5 transit, or when vehicle recovery operations or load  
6 salvage operations have begun. A person seeking to  
7 enforce a lien for the storage and safekeeping of a vehicle  
8 shall impose no charge exceeding that for one day of  
9 storage if, 24 hours or less after the vehicle is placed in  
10 storage, the vehicle is released. If the release is made  
11 more than 24 hours after the vehicle is placed in storage,  
12 charges may be imposed on a full, calendar-day basis for  
13 each day, or part thereof, that the vehicle is in storage. If  
14 a request to release the vehicle is made and the  
15 appropriate fees are tendered and documentation  
16 establishing that the person requesting release is entitled  
17 to possession of the vehicle, or is the owner's insurance  
18 representative, is presented within the initial 24 hours of  
19 storage, and the storage facility fails to comply with the  
20 request to release the vehicle or is not open for business  
21 during normal business hours, then only one day's charge  
22 may be required to be paid until after the first business  
23 day. A "business day" is any day in which the lienholder  
24 is open for business to the public for at least eight hours.  
25 If the request is made more than 24 hours after the vehicle  
26 is placed in storage, charges may be imposed on a  
27 full-calendar day basis for each day, or part thereof, that  
28 the vehicle is in storage.

29 (b) If the vehicle has been determined to have a value  
30 not exceeding ~~two~~ *four* thousand ~~five hundred~~ dollars  
31 ~~(\$2,500)~~ *(\$4,000)*, the lien shall be satisfied pursuant to  
32 Section 3072. Lien-sale proceedings pursuant to Section  
33 3072 shall commence within 15 days of the date the lien  
34 arises. No storage shall accrue beyond the 15-day period  
35 unless lien-sale proceedings pursuant to Section 3072  
36 have commenced. The storage lien may be for a period  
37 not exceeding 60 days if a completed notice of a pending  
38 lien sale form has been filed pursuant to Section 3072  
39 within 15 days after the lien arises. Notwithstanding this

1 60-day limitation, the storage lien may be for a period not  
2 exceeding 120 days if any one of the following occurs:

3 (1) A Declaration of Opposition is filed with the  
4 department pursuant to Section 3072.

5 (2) The vehicle has an out-of-state registration.

6 (3) The vehicle identification number was altered or  
7 removed.

8 (4) A person who has an interest in the vehicle  
9 becomes known to the lienholder after the lienholder has  
10 complied with subdivision (b) of Section 3072.

11 (c) If the vehicle has been determined to have a value  
12 exceeding ~~two four~~ thousand ~~five—hundred~~ dollars  
13 ~~(\$2,500)~~ (\$4,000) pursuant to Section 22670 of the Vehicle  
14 Code, the lien shall be satisfied pursuant to Section 3071.  
15 The storage lien may be for a period not exceeding 120  
16 days if an application for an authorization to conduct a  
17 lien sale has been filed pursuant to Section 3071.

18 (d) Any lien under this section shall be extinguished,  
19 and no lien sale shall be conducted, if any one of the  
20 following occurs:

21 (1) The lienholder, after written demand to inspect  
22 the vehicle made by either personal service or certified  
23 mail with return receipt requested by the legal owner or  
24 the lessor, fails to permit the inspection by the legal  
25 owner or lessor, or his or her agent, within a period of time  
26 of at least 24 hours, but not to exceed 72 hours, after the  
27 receipt of that written demand, during the normal  
28 business hours of the lienholder. The legal owner or lessor  
29 shall comply with inspection and vehicle release policies  
30 of the impounding public agency.

31 (2) The amount claimed for storage exceeds the  
32 posted rates.

33 SEC. 2. Section 3072 of the Civil Code is amended to  
34 read:

35 3072. (a) For vehicles with a value determined to be  
36 ~~two four~~ thousand ~~five—hundred~~ dollars ~~(\$2,500)~~ (\$4,000)  
37 or less, the lienholder shall apply to the department for  
38 the names and addresses of the registered and legal  
39 owners of record. The request shall include a description  
40 of the vehicle, including make, year, model, identification

1 number, license number, and state of registration. If the  
2 vehicle identification number is not available, the  
3 Department of Motor Vehicles shall request an  
4 inspection of the vehicle by a peace officer, licensed  
5 vehicle verifier, or departmental employee before  
6 releasing the names and addresses of the registered and  
7 legal owners and interested parties.

8 (b) The lienholder shall, immediately upon receipt of  
9 the names and addresses, send, by certified mail with  
10 return receipt requested or by United States Postal  
11 Service Certificate of Mailing, a completed Notice of  
12 Pending Lien Sale form, a blank Declaration of  
13 Opposition form, and a return envelope preaddressed to  
14 the department, to the registered owner and legal owner  
15 at their addresses of record with the department, and to  
16 any other person known to have an interest in the vehicle.  
17 The lienholder shall additionally send a copy of the  
18 completed Notice of Pending Lien Sale form to the  
19 department by certified mail on the same day that the  
20 other notices are mailed pursuant to this subdivision.

21 (c) All notices to persons having an interest in the  
22 vehicle shall be signed under penalty of perjury and shall  
23 include all of the following information and statements:

24 (1) A description of the vehicle, including make, year  
25 model, identification number, license number, and state  
26 of registration. For motorcycles, the engine number shall  
27 also be included.

28 (2) The specific date, exact time, and place of sale,  
29 which shall be set not less than 31 days, but not more than  
30 41 days, from the date of mailing.

31 (3) The names and addresses of the registered and  
32 legal owners of the vehicle and any other person known  
33 to have an interest in the vehicle.

34 (4) All of the following statements:

35 (A) The amount of the lien and the facts concerning  
36 the claim which gives rise to the lien.

37 (B) The person has a right to a hearing in court.

38 (C) If a court hearing is desired, a Declaration of  
39 Opposition form, signed under penalty of perjury, shall  
40 be signed and returned to the department within 10 days

1 of the date the Notice of Pending Lien Sale form was  
2 mailed.

3 (D) If the Declaration of Opposition form is signed  
4 and returned, the lienholder shall be allowed to sell the  
5 vehicle only if he or she obtains a court judgment or if he  
6 or she obtains a subsequent release from the declarant or  
7 if the declarant cannot be served as described in  
8 subdivision (e).

9 (E) If a court action is filed, the declarant shall be  
10 notified of the lawsuit at the address shown on the  
11 Declaration of Opposition form and may appear to  
12 contest the claim.

13 (F) The person may be liable for court costs if a  
14 judgment is entered in favor of the lienholder.

15 (d) If the department receives the completed  
16 Declaration of Opposition form within the time specified,  
17 the department shall notify the lienholder within 16 days  
18 that a lien sale shall not be conducted unless the  
19 lienholder files an action in court within 30 days of the  
20 notice and judgment is subsequently entered in favor of  
21 the lienholder or the declarant subsequently releases his  
22 or her interest in the vehicle. If a money judgment is  
23 entered in favor of the lienholder and the judgment is not  
24 paid within five days after becoming final, then the  
25 judgment may be enforced by lien sale proceedings  
26 conducted pursuant to subdivision (f).

27 (e) Service on the declarant in person or by certified  
28 mail with return receipt requested, signed by the  
29 declarant or an authorized agent of the declarant at the  
30 address shown on the Declaration of Opposition form,  
31 shall be effective for the serving of process. If the  
32 lienholder has served the declarant by certified mail at  
33 the address shown on the Declaration of Opposition form  
34 and the mail has been returned unclaimed, or if the  
35 lienholder has attempted to effect service on the  
36 declarant in person with a marshal, sheriff, or licensed  
37 process server and the marshal, sheriff, or licensed  
38 process server has been unable to effect service on the  
39 declarant, the lienholder may proceed with the judicial  
40 proceeding or proceed with the lien sale without a

1 judicial proceeding. The lienholder shall notify the  
2 Department of Motor Vehicles of the inability to effect  
3 service on the declarant and shall provide the  
4 Department of Motor Vehicles with a copy of the  
5 documents with which service on the declarant was  
6 attempted. Upon receipt of the notification of  
7 unsuccessful service, the Department of Motor Vehicles  
8 shall send authorization of the sale to the lienholder and  
9 shall send notification of the authorization to the  
10 declarant.

11 (f) At least 10 consecutive days prior to and including  
12 the day of the sale, the lienholder shall post a Notice of  
13 Pending Lien Sale form in a conspicuous place on the  
14 premises of the business office of the lienholder and if the  
15 pending lien sale is scheduled to occur at a place other  
16 than the premises of the business office of the lienholder,  
17 at the site of the forthcoming sale. The Notice of Pending  
18 Lien Sale form shall state the specific date and exact time  
19 of the sale and description of the vehicle, including the  
20 make, year, model, identification number, license  
21 number, and state of registration. For motorcycles, the  
22 engine number shall also be included. The notice of sale  
23 shall remain posted until the sale is completed.

24 (g) No lien sale shall be undertaken pursuant to this  
25 section unless the vehicle has been available for  
26 inspection at a location easily accessible to the public at  
27 least one hour before the sale and is at the place of sale at  
28 the time and date specified on the notice of sale. Sealed  
29 bids shall not be accepted. The lienholder shall conduct  
30 the sale in a commercially reasonable manner. All lien  
31 sale documents required by the department shall be  
32 completed and delivered to the buyer immediately  
33 following the sale.

34 (h) Any lien sale pursuant to this section shall be void  
35 if the lienholder does not comply with this chapter. Any  
36 lien for fees or storage charges for parking and storage of  
37 a motor vehicle shall be subject to Section 10652.2 of the  
38 Vehicle Code.

39 SEC. 3. Section 3073 of the Civil Code is amended to  
40 read:



1 3073. The proceeds of a vehicle lien sale under this  
2 article shall be disposed of as follows:

3 (a) The amount necessary to discharge the lien and  
4 the cost of processing the vehicle shall be paid to the  
5 lienholder. The cost of processing shall not exceed  
6 seventy dollars (\$70) for each vehicle valued at ~~two four~~  
7 thousand ~~five hundred~~ dollars ~~(\$2,500)~~ (\$4,000) or less, or  
8 one hundred dollars (\$100) for each vehicle valued over  
9 ~~two four thousand five hundred~~ dollars ~~(\$2,500)~~ (\$4,000).

10 (b) The balance, if any, shall be forwarded to the  
11 Department of Motor Vehicles within 15 days of any sale  
12 conducted pursuant to Section 3071 or within five days of  
13 any sale conducted pursuant to Section 3072 and  
14 deposited in the Motor Vehicle Account in the State  
15 Transportation Fund, unless federal law requires these  
16 funds to be disposed in a different manner.

17 (c) Any person claiming an interest in the vehicle may  
18 file a claim with the Department of Motor Vehicles for  
19 any portion of the funds from the lien sale that were  
20 forwarded to the department pursuant to subdivision (b).  
21 Upon a determination of the Department of Motor  
22 Vehicles that the claimant is entitled to an amount from  
23 the balance deposited with the department, the  
24 department shall pay that amount determined by the  
25 department, which amount shall not exceed the amount  
26 forwarded to the department pursuant to subdivision (b)  
27 in connection with the sale of the vehicle in which the  
28 claimant claims an interest. The department shall not  
29 honor any claim unless the claim has been filed within  
30 three years of the date the funds were deposited in the  
31 Motor Vehicle Account.

32 SEC. 4. Section 3074 of the Civil Code is amended to  
33 read:

34 3074. The lienholder may charge a fee for lien-sale  
35 preparations not to exceed seventy dollars (\$70) in the  
36 case of a vehicle having a value determined to be ~~two four~~  
37 thousand ~~five hundred~~ dollars ~~(\$2,500)~~ (\$4,000) or less  
38 and not to exceed one hundred dollars (\$100) in the case  
39 of a vehicle having a value determined to be greater than  
40 ~~two four thousand five hundred~~ dollars ~~(\$2,500)~~ (\$4,000),

1 from any person who redeems the vehicle prior to  
2 disposal or is paid through a lien sale pursuant to this  
3 chapter. These charges may commence and become part  
4 of the possessory lien when the lienholder requests the  
5 names and addresses of all persons having an interest in  
6 the vehicle from the Department of Motor Vehicles. Not  
7 more than 50 percent of the allowable fee may be charged  
8 until the lien-sale notifications are mailed to all interested  
9 parties and the lienholder or registration service agent  
10 has possession of the required lien processing documents.  
11 This charge shall not be made in the case of any vehicle  
12 redeemed prior to 72 hours from the initial storage.

13 SEC. 5. Section 22670 of the Vehicle Code is amended  
14 to read:

15 22670. For lien sale purposes, the public agency  
16 causing the removal of the vehicle shall determine if the  
17 estimated value of the vehicle that has been ordered  
18 removed, towed, or stored is three hundred dollars (\$300)  
19 or less, over three hundred dollars (\$300) but ~~two~~ *four*  
20 ~~thousand five hundred~~ dollars ~~(\$2,500)~~ *(\$4,000)* or less, or  
21 over ~~two~~ *four* thousand ~~five hundred~~ dollars ~~(\$2,500)~~  
22 *(\$4,000)*.

23 If the public agency fails or refuses to put a value on, or  
24 to estimate the value of, the vehicle within three days  
25 after the date of removal of the vehicle, the garage keeper  
26 specified in Section 22851 or the garage keeper's agent  
27 shall determine, under penalty of perjury, if the  
28 estimated value of the vehicle that has been ordered  
29 removed, towed, or stored, is three hundred dollars  
30 (\$300) or less, over three hundred dollars (\$300) but ~~two~~  
31 *four* thousand ~~five hundred~~ dollars ~~(\$2,500)~~ *(\$4,000)* or  
32 less, or over ~~two~~ *four* thousand ~~five hundred~~ dollars  
33 ~~(\$2,500)~~ *(\$4,000)*.

34 SEC. 6. Section 22851.12 of the Vehicle Code is  
35 amended to read:

36 22851.12. The lienholder may charge a fee for lien-sale  
37 preparations not to exceed seventy dollars (\$70) in the  
38 case of a vehicle having a value determined to be ~~two~~ *four*  
39 thousand ~~five hundred~~ dollars ~~(\$2,500)~~ *(\$4,000)* or less  
40 and not to exceed one hundred dollars (\$100) in the case



1 of a vehicle having a value determined to be greater than  
2 ~~two~~ *four* thousand ~~five hundred~~ dollars ~~(\$2,500)~~ (\$4,000),  
3 from any person who redeems the vehicle prior to  
4 disposal or is sold through a lien-sale pursuant to this  
5 chapter. These charges may commence and become part  
6 of the possessory lien when the lienholder requests the  
7 names and addresses of all persons having an interest in  
8 the vehicle from the department. Not more than 50  
9 percent of the allowable fee may be charged until the  
10 lien-sale notifications are mailed to all interested parties  
11 and the lienholder or the registration service agent has  
12 possession of the required lien processing documents.  
13 This charge shall not be made in the case of any vehicle  
14 redeemed prior to 72 hours from the initial storage.

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